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ELECTRONICALLY FILED
July 23, 2009

5 Attorney for Debtors
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8 UNITED STATES BANKRUPTCY COURT
9 DISTRICT OF NEVADA

10 —ooOoo—

11 In Re:

12 WES CONSTRUCTION COMPANY,
INC., a Nevada corporation,
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14 HEAVY EQUIPMENT SERVICES, LLC, a
Nevada limited liability company,
15 TRUCKING SERVICES, LLC,
a Nevada limited liability company,
16
17 Debtors.

Case No. BK-N-09-52177-GWZ (Lead)
Case No. BK-N-09-52178-GWZ
Case No. BK-N-09-52181-GWZ
(Jointly Administered)

**DECLARATION OF MICHAEL
BRANDT IN SUPPORT OF
DEBTORS' MOTION FOR ORDER
APPROVING SETTLEMENT
AGREEMENT AND TO MAKE
CERTAIN DISTRIBUTIONS**

Hearing Date: [OST Pending]

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20 I, MICHAEL BRANDT, hereby declare under penalty of perjury that the following
21 assertions are true:

22 1. That I am the Chief Financial Officer for Debtor WES Construction Company,
23 Inc. ("WES").

24 2. That I have personal knowledge of the facts set forth herein, and if called to
25 testify would be competent to testify regarding the same.

26 3. That I have worked with Aaron B. Fricke, Esq. and Kurt O. Hunsberger, Esq.
27 of the law firm Maupin, Cox & LeGoy ("MCL") since February 23, 2009 in order to pursue
28 a claim by WES Construction against Roy A. Walker ("Walker") and his affiliates associated

1 with alleged misfeasance, malfeasance and improper accountings, and general unjust
2 enrichment, together with other claims. Our assessment of the damage claim remaining at
3 July 6, 2009 against Walker was approximately \$3,940,992.86. Although this claim was
4 listed as an account receivable in the schedules and statements filed in this case, there is no
5 accounts receivable due from Walker, and the same is not supported by any promissory note
6 or other documentary entry. The sum of \$3,940,992.86 is merely our G.A.A.P. reviewed
7 financial statement estimate of the damage claim against Walker. We have taken steps to
8 amend the schedules to properly reflect the claim against Walker and his affiliates.

9 4. In my opinion, the settlement with Walker is fair, and is in the best interests of
10 creditors. WES is in desperate need of funds in order to operate. Although business
11 prospects are very good, we have no operating capital. Accordingly, we have no ability to
12 gear up for larger jobs, which often requires available cash in the range of \$200,000.00. For
13 example, on June 29, 2009, we will bid a current job with Nevada Energy for the sum of
14 approximately \$1,200,000.00 which will commence on or about August 1, 2009, and run
15 through October 15, 2009, and which requires initial available cash of approximately
16 \$150,000.00 in order to gear up. Our need for cash is immediate, and unless cash become
17 available within the next two weeks, our ability to bid additional jobs and maintain operation
18 will be severely hampered, if not destroyed completely.

19 5. That immediately prior to filing the petition herein, MB Financial Bank, N.A.
20 ("MB Financial") controlled all of the cash of WES. Specifically, all collections were
21 deposited into a MB Financial account, and all disbursements required the approval of MB
22 Financial. Accordingly, as of the petition filing date, WES had no excess cash whatsoever.
23 Accordingly, we were unable to pay a retainer to Alan R. Smith, Esq. for his services in
24 connection with this bankruptcy case. We agreed that the retainer would be paid to Mr.
25 Smith from the funds generated from the settlement with Walker.

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1 DATED this ____ day of July, 2009.

2 *See attached signature*

3 MICHAEL BRANDT

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1 DATED this 22nd day of July, 2009.

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3 MICHAEL BRANDT
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